IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Petitioner,))) C.A. No. 08-20 Erie
vs.	 District Judge Cohill Magistrate Judge Baxter
RAYMOND J. SOBINA, et al., Respondents.	
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION	
I. RECOMMENDATION	
It is respectfully recommended that	the instant petition for writ of habeas corpus be
transferred to the Eastern District of Penns	ylvania.
II. REPORT	
This is a petition for writ of habeas	corpus, pursuant to 28 U.S.C. § 2254, filed by a state
prisoner presently incarcerated at the State	Correctional Institution at Albion in the Western
District of Pennsylvania.	
In his petition, Petitioner Delramon	Tolliferreo claims that he was convicted of various
firearms and assault charges in Philadelphi	ia County, Pennsylvania, on or about May 10, 2002.
He is currently serving a sentence of 28 to	57 years of imprisonment. As grounds for habeas
relief, Petitioner challenges the legality of	his conviction, claiming that his trial counsel was
ineffective. Title 28 U.S.C. § 2241(d) provides that where an application for a writ of habeas	
corpus is made by a person in custody unde	er the judgment and sentence of a state court of a state

the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the state court was held which convicted and

sentenced him and each of such district courts shall have

which contains two or more federal judicial districts,

concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

28 U.S.C. §2241(d). See also, Bell v. Watkins, 692 F.2d 999 (5th Cir. 1982) (the district court transferred the action on the basis of the magistrate's recommendation which indicated that the district where the defendant was convicted was the more convenient forum because of the accessibility of evidence).

In the case at bar, Petitioner was tried and convicted of the challenged offenses in Philadelphia County, Pennsylvania. Petitioner's records are located there. He is presently incarcerated at the State Correctional Institution at Albion, within the Western District of Pennsylvania. Philadelphia County is located in the Eastern District of Pennsylvania. This Court finds that the interests of justice would be better served by transferring this petition to the Eastern District of Pennsylvania wherein all activity in this case occurred.

III. CONCLUSION

It is respectfully recommended that the petition for writ of habeas corpus be transferred to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §2241(d).

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636 (b)(1) (B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrate Judges, the parties are allowed ten days from the date of service to file written objections to this Report and Recommendation. Any party opposing the objections shall have seven days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights. See e.g., Nara v. Frank, 488 F.3d 187 (3d Cir. 2007).

/s/ Susan Paradise Baxter SUSAN PARADISE BAXTER Chief U.S. Magistrate Judge Dated: April <u>18</u>, 2008

The Honorable Maurice B. Cohill United States District Judge cc: